



POLICE DEPARTMENT

January 15, 2020

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| In the Matter of the Charges and Specifications | : | Case No.   |
| - against -                                     | : | 2017-17412 |
| Sergeant Williams Jean-Baptiste                 | : |            |
| Tax Registry No. 926992                         | : |            |
| 43 Precinct                                     | : |            |

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At: Police Headquarters  
One Police Plaza  
New York, NY 10038

Before: Honorable Nancy R. Ryan  
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Samuel Yee, Esq.  
Department Advocate's Office  
One Police Plaza  
New York, NY 10038

For the Respondent: John D' Alessandro, Esq.  
The Quinn Law Firm  
399 Knollwood Road, Suite 220  
White Plains, NY 10603

To:

HONORABLE DERMOT F. SHEA  
POLICE COMMISSIONER  
ONE POLICE PLAZA  
NEW YORK, NY 10038

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## CHARGES AND SPECIFICATIONS

1. Said Sergeant Williams Jean-Baptiste, while assigned to the 43rd Precinct, on or about and between January 11, 2016 and May 5, 2017, knowingly associated with a person reasonably believed to be engaged in, likely to engage in, or to have engaged in criminal activities, to wit: Person A.

P.G. 203-10, Page 1, Paragraph 2(c)

CRIMINAL ASSOCIATION

## REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on November 15, 2019.

Respondent, through his counsel, entered a plea of Not Guilty to the subject charge. The Department called Sergeant Edward Ho as a witness. Respondent called M [REDACTED] as a witness and testified on his own behalf. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. I find the Respondent Guilty and recommend a penalty of the loss of 2 vacation days.

## ANALYSIS

The relevant facts in this case are not in dispute. In 2016, IAB received information that on two separate occasions Person A, while in custody, told the police that his father was an NYPD sergeant. Person A also possessed a SBA card relating to Respondent. (Tr. 12; Dep't. Ex. 1) IAB opened an investigation and conducted a telephone analysis comparing Person A phone records with Respondent's phone records. They found that between March 15, 2016, and June 2, 2016, Person A called Respondent 14 times from one phone number and eight times from another phone, while Respondent called Person A a total of seven times. There were also nine texts from Person A to Respondent and four texts from Respondent to Person A during the period from January 11, 2016, through March 9, 2016. IAB also found several phone calls between Respondent and Person A while Person A was incarcerated at Rikers Island. (Tr. 13-17)



Respondent was interviewed by IAB concerning his interactions with Person A. Respondent admitted he was aware of Person A's prior arrests. Respondent told the IAB investigators that he would frequently go to a precinct to meet Person A after he had been arrested. Respondent also told IAB that he felt he essentially was Person A's father and had raised him since he was an infant, baptized him, and went to school events as a father would. Respondent stated that Person A's biological father had never been in Person A's life. (Tr. 17-20) IAB did not have any evidence that Respondent tried to influence the outcomes in any of Person A's arrests. (Tr. 20)

Sergeant Edward Ho, who conducted the IAB investigation into this case, testified at trial that if Respondent had either adopted Person A or married Person A's mother, he would not have been in violation of the Department's policy on criminal association. (Tr. 22)

Person A's mother, M [REDACTED] testified at trial that both Person A and her daughter have considered Respondent to be their father since they were born over 25 years ago. She elaborated that Respondent acted like a father figure taking the two children to doctor's appointments and being their emergency contact. When Person A had problems in school, Respondent moved him to Respondent's brother's house [REDACTED] to get him away from his neighborhood problems. (Tr. 25-27, 31) Since Respondent was served with disciplinary charges, he has not been allowed any contact with Person A and that is "killing" Person A. (Tr. 28)

Person A is not Respondent's biological or adopted son, nor has Person A ever lived with Respondent. (Tr. 29, 34, 39) Ms. [REDACTED] was never married to Respondent nor did she ever live with him. (Tr. 30)

Respondent testified that he has considered himself to be Person A's father since Person A was born. He was involved in Person A's education and moved him to different schools to get him away from bad influences. He also took Person A to doctor's appointments and to church. He would regularly

communicate with him in person and through calls and texts. (Tr. 34-36) Respondent was aware that Person A had been arrested while he was in school. After knowing about Person A's previous arrests, Respondent did communicate with Person A while he was in jail. Respondent has not had any contact with Person A for the last three years since IAB told him he was not allowed to contact Person A. Respondent testified that he never used his influence as a member of the Department when Person A got into trouble. (Tr. 37-38, 40, 42, 44)

Respondent acknowledged that he was aware that as a member of the Department he was not to have contact with anyone reasonably believed to be engaged in, have engaged in, or likely to engage in criminal activities. (Tr. 38-39) In one phone call to Person A while he was in jail, Respondent told Person A he could not visit him because he did not want his job to know about his and Person A's business. (Dep't. Ex. 3A at 6)

Transcripts of phone conversations between Respondent and Person A while Person A was in Rikers indicate that Respondent was sending Person A money and was arranging \$50,000 for bail money. During the calls, Respondent and Person A also exchanged words that they love each other. (Dep't. Exs. 3A, 3B, 3C, 3D, 3E)

Under Patrol Guide section 203-10 (2) (c) members of the service are prohibited from "Knowingly associating with any person or organization reasonably . . . believed to be engaged in, likely to engage in, or to have engaged in criminal activities." The language of the prohibition includes associations with "any person," with no specific exclusions. As it has been applied however, exclusions have been made for associations with certain categories of people.

Unfortunately, there is no written rule or policy guide as to what exclusions, if any, apply to this Patrol Guide section. In cases decided in this forum, the Department has offered different standards to decide on exclusions, and the court has reached varying conclusions on the extent of any exclusion.



In one case, a police officer was found Not Guilty of associating with a person known to her as a criminal starting from the period of time from when she believed she was pregnant with this person's child since that was the start of a "family relationship." Notably, the Department did not bring any charges for the time period after the officer confirmed she was pregnant with the person's child. The court explained this charging decision by writing that, once the "Respondent's pregnancy became medically certain....the Department did not expect the Respondent to cease her relationship with (the known criminal) because that would have upset the future mother/father relationship for the unborn child." [REDACTED]

In a case involving a member of service and his cousins, the Department Advocate moved to dismiss a charge of knowing association with a criminal. The Department Advocate represented to the court that IAB unsubstantiated the case where the member did socialize with his cousins whom he knew to have had past arrests because the motive for the socializing was "noble," and the member did not engage in unlawful actions. The member had explained that while socializing he had given his cousins advice on how to "straighten out their lives." The court, in recommending that the Department Advocate's motion to dismiss be granted, stated that the Department Advocate pointed out that while the Patrol Guide prohibits associating with known criminals it is "somewhat vague" on the issue when the allegations involve family members. The protocol at the time apparently was to "examine criminal association allegations involving family members on a case-by-case basis to determine the intentions of the MOS and the nature of his/her relationship with the family member in question." [REDACTED]

[REDACTED]

In a case involving a member of service posting bail for his fiancée, the court found the member Guilty of criminal association and recommended a penalty of the loss of 20 vacation days. The Department's position in this case was again that enforcement under the Patrol Guide prohibition on

criminal association was to be determined on a case-by-case- fact-based examination of the relationship between the member and the criminal. However, the Department, in presenting its position to the court, did not examine the facts surrounding the relationship which included that the fiancée and her son spent a lot of time at the member's house and went on vacations with him and his children. Instead, the Department made a distinction between relationships that conveyed legal rights versus those that did not. The Department claimed to the court that the "words fiancé and fiancée, for purposes of this administrative proceeding, import no legal significance what-so-ever and convey no legal rights which would allow Respondent to assert an exemption to the criminal association prohibition." The Department differentiated relationships such as marriage and other family relationships including mother, father, brother, sister, son and daughter which, "invoke a host of entitlements [under State and Federal law] which were not available to those outside the familial relationship."

In the court's decision, the court wrote that it was mindful that "members develop close relationships outside of the family domain which involve strong personal feelings over long periods of time. Those relationships, however, while important to the member cannot be given the same considerations as those given to relationships within the recognized family circle and therefore cannot be condoned when evaluation an 'association' charge under the Patrol Guide." The court further wrote that, "[i]f the line beyond the family circle is allowed to be crossed, there would be no end to the myriad of circumstances that would be offered by members for exclusion from the dictates of the 'association' requirements." [REDACTED]

In another case, Respondent argued that a family exemption to the criminal association prohibition should apply in a situation where the criminal he associated with was the equivalent to a brother to him. The Respondent's mother had taken in the other boy when the boy's mother died. Respondent lived and was raised with him for eight or nine years. Respondent indicated that he only saw



the "brother" on social occasions after the boy, who was about 15 years older than Respondent, moved out of the house. The court, although finding Respondent Guilty, noted that if Respondent had fully explained this relationship at his initial interviews, he "may have qualified under this exception."

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Another Respondent was found Guilty of criminal association despite asserting that the criminal was her *de facto* father because he had acted as the only father she had ever known. This Respondent testified that she met this man when she was four or five years old and that he would walk her to school, pick her up and take her to the park. He would also take her to live with him on weekends. He taught her to drive and bought her her first car. He was at times her primary caregiver and she lived with him for a time. She would introduce him to people as her father and he would introduce her as his daughter. The man was present at the birth of Respondent's son. Respondent testified she gave her son the man's last name so he would have her "father's" name. When the man was deported he gave his three properties in the United States to Respondent, and she is his sole heir.

The court in this case seemingly narrowed the test of looking at whether relationships conferred legal benefits as in the decision above, and stated that, "even where a 'familial relationship' has been shown to exist between a MOS and a relative who has engaged in criminal activities, the existence of the 'familial relationship,' standing alone does not immunize the MOS from a charge of criminal association." The court then based its decision on the nature of the contacts. It stated that while it was understandable that Respondent would want a continuing close relationship with the man she viewed as her father, if Respondent had limited her contact with the criminal to unavoidable encounters when visiting other family members, she could have argued that no genuine association existed. Respondent went beyond this, however, by arranging for bail and engaging in financial transactions with the criminal.

A penalty of the loss of 30 vacation days and a year of dismissal probation was imposed. (Note Respondent had a second charge of being off-post). [REDACTED]

The court in the instant case finds this Patrol Guide Section on criminal association to be calling out for clarification on how it is to be implemented and what, if any, exceptions will be granted. Social constructs and society's view of what it means to be a family have changed greatly over the years. Unfortunately without any written guidance taking these considerations into account, the court is left in a position with no clear test to apply since cases have been decided in conflicting ways through the use of sometimes flexible and sometimes inflexible tests in reaching decisions on whom Respondents may associate with.

Based on at least some case precedent, views taken by the Advocate's Office over the years, and by IAB as announced by the IAB witness in this case, the court is choosing to closely evaluate the nature of the relationship in this specific case. In the instant case, the court is not basing its decision on the fact that there was no blood or adoptive relationship between Respondent and Person A. However, the court does not find that sufficient evidence was introduced to place Respondent in the position more closely seen as that of a surrogate father as opposed to that of a close family friend. While Respondent and Person A's mother testified that Respondent would do certain tasks a parent might undertake such as walk Person A to school or help with homework or be listed on an emergency card, there was not enough evidence of a connection that would have allowed Respondent to be considered a surrogate father over any extended period of time. Just by way of example, but not as requirements, perhaps more detailed accounts of the amount of time Respondent spent with Person A or any evidence indicating the extent if any of Respondent's financial support of Person A could have been presented. Respondent, based on the testimony, certainly was a good friend to the family, but without additional supporting evidence I do not find that he can be considered to have been a "father" to Person A. Based on that conclusion and without



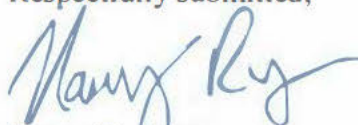
specific guidance authorizing an exemption to the ban on criminal associations for close family friends<sup>1</sup>, I find that Respondent is Guilty of Specification 1.

### PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v. Board of Educ., 34 N.Y.2d 222, 240 (1974). Respondent was appointed to the Department on September 29, 2000. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

The Department Advocate is requesting a penalty of the loss of 15 vacation days in this case. I find however that there are mitigating factors in this case. Respondent seemingly had positive motives in trying to help steer Person A away from negative influences. Also of significance, IAB did not find any evidence that Respondent tried to exert influence in any of Person A cases. Finally, despite the emotional pain of separating himself from Person A, as evidenced by Respondent's demeanor on the stand when discussing it, Respondent has complied with the Department order to have no contact with Person A for several years. I, therefore, recommend a penalty of the loss of 2 vacation days.

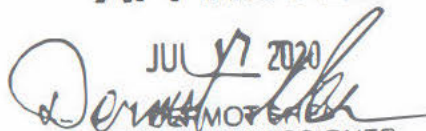
Respectfully submitted,



Nancy R. Ryan

Assistant Deputy Commissioner Trials

**APPROVED**

JUL 17 2020  
  
POLICE COMMISSIONER

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<sup>1</sup> While this court is not aware of any system, nor does it have the jurisdiction to suggest or impose one, it could serve to alleviate confusion regarding exemptions from the ban on criminal associations, if there was a system where waivers could be applied for or members could have their specific situations reviewed in advance.



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner Trials

To: Police Commissioner

Subject: CONFIDENTIAL MEMORANDUM  
SERGEANT WILLIAMS JEAN-BAPTISTE  
TAX REGISTRY NO. 926992  
DISCIPLINARY CASE NO. 2017-17412

Respondent was appointed to the Department on September 29, 2000. On his last three annual performance evaluations, he received 4.0 overall ratings of "Highly Competent" for 2016, 2017, and 2018. [REDACTED]

Respondent has no formal disciplinary history. In connection with the instant matter, he was placed on Level 1 Discipline Monitoring on December 8, 2017. Monitoring remains ongoing.

For your consideration.

Nancy R. Ryan  
Assistant Deputy Commissioner Trials